



CRITICAL LEGAL ANALYSIS OF HUMAN RIGHTS VIOLATIONS CARRIED OUT BY AI MACHINES GLOBALLY

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ABSTRACT

The word artificial intelligence might sound technical to us but its growing familiarity has touched the human race very deeply starting from ALEXA, GPS, TESLA, SOPHIA, CHATBOT, SIRI, CORTANA, Smart homes culture, CHATGPT etc. Instead of good morning, “Hi Alexa” is now a word of common parlance. The day is not so far away, when we all will be living the life of convenience with self- autonomous vehicles running on the roads taking us from the home to office, robots preparing the meals or helping our children in studies, machines assisting us in our office work etc. The so-called life of convenience sounds incredible and fun filled. But, if all the repetitive or labour-intensive jobs will be done by machines, then we must accept that we are enjoying our convenience at the cost of the livelihood of others.

The present research paper revolves around the fate of human rights while deploying the Artificial intelligent (hereinafter referred to as AI) systems in almost all the spheres of a human life be it in medical profession, for automation of industries increasing their efficiency and output, data management and record keeping, increased efficiency in customer service by use of chatbots, automation vehicles, etc.

Also, we all forget nothing comes without danger or threats, especially technology. So, before we put any machine into use, we must research its loopholes and impact on society.

AI technology carrying out automated decisions suffers with many problems like- black box problem, biasness, hallucinations, Eliza effect, errors in data feeding etc. so AI delivers very unjust and absurd results sometimes, unknown to the human operating it. We need to critically analyse the repercussions on deploying AI machines in the society.

Question arises here is whether we dictate the technology or technology dictate us? The paper is inclined to critically review whether AI is complementing human rights universally or infringing the same in the guise of technological benefits.

Keywords- AI, Artificial Intelligent system, Algorithms, Black Box problem, Automated Systems, Automation, Product, Technology, Legal implications, Human Rights Violations.

DEFINING ARTIFICIAL INTELLIGENCE

In the fast-evolving technological era we all are in the quest to harness the technological benefits in such a way where we can reduce our labour, time, and enhance productivity, revenue. Not just this, we are in a hurry to substitute the specialised systems over the humans which can take over the risks with which the humans are exposed to like nuclear plants, combustion industries, etc.! We are heading towards an era of robots and the intelligent



machines which can think, learn, perceive, process, analyse, comprehend and solve the human based problems existing in the society.

Encyclopedia Britannica defines AI as *“the ability of a digital computer or computer-controlled robot to perform tasks commonly associated with intelligent being”*.¹ AI systems are designed in such a way which can be seen as a replica of the human mind, applying intelligence in the same way humans do!

AI can be defined in two different approaches i.e., rationalist and human-centric.² The rationalist definition, defines AI as *“an agent created by humans that decide and performs actions based on its perception”* and the human-centric definition defines AI as *“that machine which qualifies the Turing test, (a computer test requiring human intelligence)”*.³ The High-Level Expert Group on AI provided a definition of AI in 2019⁴:

“Artificial intelligence (AI) systems are software (and possibly also hardware) systems designed by humans that, given a complex goal, act in the physical or digital dimension by perceiving their environment through data acquisition, interpreting the collected structured or unstructured data, reasoning on the knowledge, or processing the information, derived from this data and deciding the best action(s) to take to achieve the given goal. AI systems can either use symbolic rules or learn a numeric model, and they can also adapt their behaviour by analysing how the environment is affected by their previous actions”.

In simpler words, The AI systems are the automated systems involving human fed algorithms that are determining benefits, employment or services or penalties, performing Surveillance or unsupervised data transactions, carrying out risk assessments, predictive policing in criminal justice system, Ad-targeting. Examples of Automated systems are insurance system algorithms, Medical AI assisted diagnosing tools, financial system algorithms, automated traffic control systems, Speech-related systems etc. AI technology is taking over all the human based work like automation, facial or speech recognition, surveillance etc.

RESEARCH OBJECTIVES

- To examine that rule of law prevails over technological advancements.
- To examine ethically responsible use of AI in society.
- To deal with the unemployment issues, inequality gap in the society while availing the benefits of AI.
- To examine what is more important -Basic human rights or the profits earned by the big organisations at the cost of human rights exploitation.

¹ B.J. Copeland, "Artificial Intelligence", *Encyclopaedia Britannica* (9 October, 2024), available at: <https://www.britannica.com/technology/artificial-intelligence> (Last visited on October 10, 2024).

² Catelijne Muller, “The Impact of Artificial Intelligence on Human Rights, Democracy and the Rule of Law”, *Council of Europe* 2020, available at: <https://rm.coe.int/cahai-2020-06-fin-c-muller-the-impact-of-ai-on-human-rights-democracy-/16809ed6da> (Last visited on November 2, 2023).

³ *Ibid.*

⁴ European Commission: Directorate-General for Communication, *EU High Level Expert Group on AI- A definition of AI, main capabilities and scientific disciplines*, B-1049 (Brussels, 18 December 2018).



- To understand the extent and impact of Human Rights violation by AI.
- To critically examine the efficacy of existing Law Regime governing the AI.
- To examine the role of States and International Conventions to prevent the Human Rights infringement by AI.
- To undertake a comparative study of the legal regime governing the AI in other Countries in order to adopt the most appropriate legal regime and to suggest the reforms in India.
- To find out and fix liability upon an entity who shall be responsible in case of violation of human rights by AI.
- To suggest reforms and suggestions in order to ensure the smooth functioning and application of AI by society without putting human rights at stake.

RESEARCH QUESTIONS:

- Whether the Rule of Law prevails over technical advancements?
- What are the prospective Human Rights violations because of AI?
- How well-regulated and efficient is the Contemporary Law Regime pertaining to AI?
- How can Human Rights be secured while harnessing the benefits of AI at the same time?
- What is more important- Basic Human Rights or the profits earned by the Big-Tech companies at the cost of human rights exploitation?
- How far has the global regime tried to deal with the threats posed by AI with respect to Human Rights?
- Who is liable in case of violation of human rights by AI?
- What can be the possible reforms and suggestions in order to ensure smooth application of AI by the society without putting Human Rights at stake?

RESEARCH METHODOLOGY

To seek answers to the proposed questions the research scholar would use doctrinal research design. It will also include the analysis of the present legal regime, policies pertaining to AI all around the world. Further, various international conventions on Human rights will be studied and contrasted with the AI mechanisms to know how the application of AI might potentially affect human rights universally. The scholar will collect the data of violations of Human rights globally by referring to the secondary sources involving journals, HeinOnline.org, SCC, reports, newspaper articles, case laws, research papers prepared by eminent people in the field of law and in the field of technology industry. Hence the entire research conducted is exploratory, explanatory, analytical & critical research.

If the need arises the scholar would undertake the empirical study also like interviewing the victims of AI systems, industry experts, researchers, professors of law, government agencies etc. to know the working of AI systems globally and the loopholes in the AI algorithms.

BENEFITS OF AI SYSTEM



1. **MAKES LIFE COMFORTABLE** – AI system is designed in such a way which is bringing altogether new transformation into our daily lives like in handling the important appointments, synchronising it with the calendar, in diagnosing health problems, in generating answers to the queries on Chatbots, in creating smart homes culture with automatic provisions for lighting, temperature, and security settings etc.⁵
2. **REDUCES HUMAN ERROR**- Human is inclined to make errors unlike the machines which are neither negligent nor malignant. So, we can replace humans with AI machines in the areas involving mechanical work or repetitive tasks.
3. **ELIMINATES THE HUMAN SUBJECTIVE DISCRETION**- AI machines are objective in nature and is not prone to subjective discretion. Hence it eliminates the risk of getting influenced by the irrelevant factors like creed, sex, caste, community, place of birth etc.
4. **SUBSTITUTE OF HUMAN INVOLVED IN DANGEROUS JOBS**- AI systems can be used in those areas where humans are exposed to danger and risk like in nuclear plants, space exploration, mining. By deploying Tesla cars on the roads, we can reduce the number of road accidents. To prevent the spread of life-threatening diseases like epidemics, covid etc we can deploy AI agents.
5. **EFFICIENT**- AI system substitutes the skilled labour which saves manpower and resources. It can be used in industries to generate the output in a faster way. Further AI is efficient in many sectors as it delivers the assistance in many fields be it medical or legal or pharmacy or hotel industry or agriculture etc.

LEGAL PROBLEMS ASSOCIATED WITH AI

1. **COMPLEX**- AI is complex to develop, since algorithms are required to be fed by the humans in the AI system. It is too much to expect from AI to resolve human complex situations or to determine the complex human behaviour using the algorithm. Substituting the AI against humans would result in unjust determinations. Since human are bound to be flawed, so are their products!
2. **BLACK BOX PROBLEM**- Algorithms are uncertain in its operation. Even the developers also can't tell how the system reached to a particular determination. AI system also lack certainty and transparency as to how its algorithms works, called black box problem. So aggrieved never gets to know why a particular decision is taken against him, which further closes the doors of appeal to the higher authority. Black box problem in encountered in AI system many a times.

The Post Office Scandal- Software called 'Horizon' prosecuted the postmasters for misappropriation of funds. System was uncertain as to its operation, and in calculating the amounts misappropriated.⁶

The Robo debt Case- Australian Government used a data matching system to verify the amount spent in welfare schemes and to identify overpaid welfare amounts. The AI system was also not accessible to the aggrieved.⁷

⁵ BriA'нна Lawson, "Enhancing Everyday Life: How AI is Revolutionizing Your Daily Experience" (November 21, 2023), available at: <https://www.morgan.edu/ceaml/news/enhancing-everyday-life-how-ai-is-revolutionizing-your-daily-experience> (Last visited on October 5, 2024).

⁶ *Bates & Others v. Post Office Ltd*, [2019] EWHC QB 3408.



Former Prime Minister of UK- Boris Johnson in the UN General Assembly on 24 September 2019- “We are slipping into a world involving round the clock surveillance, the perils of algorithmic decision-making, the difficulty of appealing against computer determinations, and the inability to plead extenuating circumstances against an algorithmic decision-maker”.⁸

3. BIASED ALGORITHMS- Since the data in the form of algorithms is fed by humans, so AI machines inherit the human brain’s biased features also. Such bias-based AI can lead to adverse determinations that negatively impact society and human rights. It hits the principles of natural justice of individual against whom biased determination takes place.

The Google’s ethical team head, Timnit Gebru explained how google had developed AI-based tools that possibly end up with bias and using hateful language. Consequently, Google terminated the services of high-profile employees who criticised the production of AI-based computer chips called *Google Brain* with in-built biases.⁹

4. ELIZA EFFECT- The era where we are living today is a digital age where we are fond of making virtual relationships like virtual friends. Certain AI systems are developed in such a way which are known to give human experience to the user called ELIZA effect. What if the human starts demanding love relationships with the robots on the ground when robots can be the friends of humans then why can’t robots be the lovers of humans under the right to life. The ambit of right to life will be expanded to include the new trends of technology upon the human life.

5. INCOMPETENCY- AI machines should not be deployed in such determinations which are based on equity or where we require human emotions or where human is best fitted for the job. AI must fit into the eligibility criteria as prescribed for the candidates for a particular post. Competency of AI system must be at par with the candidates recruited for a particular job. Otherwise, it will hit the requirement of intelligible differentia and rational nexus between the deployment of AI machine with the object intended to be achieved. Like how can we expect AI deciding whether a particular statement will amount to sedition or not when we know the system can’t distinguish between hate speech and good speech.

Also, In *Loomis v. Wisconsin*¹⁰ The accused contended that that his due process rights were infringed as he was prevented from challenging the scientific validity and accuracy of COMPAS (Correctional Offender Management Profiling for Alternative Sanctions). It was used as a pretrial recidivism risk assessment tool by the courts to determine if bail should be granted to the accused or not.

6. PRIVACY INVASION AND HUGE DATA CONSUMPTION- AI system consumes a lot of data, which may sometimes lead to data privacy invasion. It is very difficult to gather, assemble and to feed huge data in any machine. Moreover, many users are not left with

⁷ *Katherine Prygodicz & Ors v The Commonwealth of Australia (No 2)*, [2021] FCA 634.

⁸ UN Affair, *UK’s Johnson warns of dystopian digital future, calls on UN to set global standards for emerging technologies*, UN News (General Debate 74 United Nations General Assembly, September 24, 2019), available at: <https://news.un.org/en/story/2019/09/1047422> (Last visited on October 6, 2024).

⁹ Karen Hao, “Google AI ethics research paper forced out Timnit Gebru”, *MIT Technology Review* (December 5, 2020), available at: <https://www.technologyreview.com/2020/12/04/1013294/google-ai-ethics-research-paper-forced-out-timnit-gebru/> (Last visited on October 6, 2024).

¹⁰ 881 N.W.2d 749.



choice but to share the data against their will and conscious which hits their right to keep their personal details private. There can be data errors which can lead to wrong results.

7. **CAN'T COMPREHEND THE COMPLEX HUMAN MIND-** AI-based technology collects and analyse our behavioural data by 'invading' our private lives. Data is collected in these machines on the basis of an individual's culture, age, education, past records, community, religion, daily routine, etc. Accordingly, AI makes the prediction about the human's behaviour or customer's trends or whether a person can commit the crime or not! So, it hampers our right to lead the life in our way, as it tends to alter the very thought process of an individual. Further, a person's or community's or society's behavioural patterns may alter suddenly. For instance, he might get motivated or disheartened after a particular incident. AI undermines the complex human mind and human sudden actions or sudden change in behaviour. Human mind works distinctly and not on data as AI does.

8. **LACK OF PRODUCT LIABILITY-** What if the user or the creator of the AI machine deliberately uses or designs it in such a way to advance its own oblique ends or motive? To impose legal liability is most important facet of accountability. The nature, extent of legal liability of AI system or of the user must be settled before we put any system into use. System further needs to be secured against hacking.

9. **TRADE SECRECY-** Software developers intend to preserve the trade secrecy and are not in favour to disclose how the system operates which leads to lack of accountability of AI systems.

10. **THREAT TO DEMOCRACY, RULE OF LAW-** AI tends to alter behaviour or influence the minds of the citizens by bombarding them with the selective content to them which is a threat to fair elections in any nation.

11. **AGAINST THE RIGHT TO LIVELIHOOD-** AI by development of robotics is making the industrial process more efficient at the cost of humanity and livelihood by taking away the existing jobs of unskilled, semi-skilled labour leaving them unemployed. This further creates income inequality among citizens in the society. Though it will be profit oriented but remember the profits will be reaped at the cost of universal human rights. Article 23 (1) of Universal Declaration of Human Rights, 1948, Article 6 of ICESCR, 1976 and Article 1(2) of the International Labour Organisation, 1973 all provides for the right to work, and for the choice of employment.

12. **LEADS TO SOCIAL, ECONOMICAL DISADVANTAGE OF AN INDIVIDUAL-** Nowadays various companies are deploying AI tools to hire or to dismiss the employees. Big tech companies are driven towards higher revenue goals and sometimes neglect the ethics by forcing the users to share their personal data like age, place of abode, country, biometrics etc. Lack of transparency with respect to how the data is processed and to whom its conferred violates the right to privacy enshrined under Article 12 of UDHR, Article 17 of ICCPR¹¹. The extracted data by AI systems is shared by the tech companies to the public authorities. Accordingly, the individual is provided with the benefits of the schemes rolled out by the government. Nowadays AI tools decide whether to grant the insurance premiums or the loans backed by the banking units etc. An individual is sometimes deprived of the aforesaid benefits if the data is fed by the humans in a biased or in a wrong negligent manner. The

¹¹ *Ibid.*



aforesaid procedure violates Article 25 of UDHR and Article 11 of ICESCR i.e., Right to standard living, health, food, clothing, housing, medical care and other necessary social services and Article 9 of ICESCR i.e., right to social security including social insurance. Therefore, in our attempt to correct the arbitrary human, we are inadvertently sinking into the arbitrary depths of the machine that the human created. As witnessed in *Bauserman v. Unemployment Insurance Agency*¹², the automated decision system MiDAS assessed fraud guilt without disclosing how to determine the guilt. The claimants were wrongfully rejected for unemployment benefits in accordance with the algorithm.

13. **AGAINST THE BASIC PRESUMPTION OF INNOCENCE OF THE ACCUSED-** As per official figures from a Harvard Study in 2016, it is estimated that half of the American adults' images were on agency databases. Where police use facial recognition-powered automated systems to compare such images of suspects.¹³ This also violates a person's right to privacy by collecting all his credentials and data. AI tools while conducting prosecution, investigation hampers the very right of the accused by referring to the data like details of the suspect like sex, income, nationality, religion, community, past behaviour etc to do predictive policing. Data driven AI assesses whether the present accused could commit the crime or not. Such practice is against the basic presumption of innocence of the accused till proven guilty in a public trial and hence violate the Article 10, 11 of Universal declaration of human rights, Article 14 of ICCPR. As also witnessed in *Lynch v. Florida*¹⁴, where law enforcement agency deployed the Face Analysis Comparison Examination System (FACES) to detect the suspected on the basis of features of the face. The system generated a face biometric by comparing the suspected image to the face features available in the database.

14. **LACK BASIC SAFETY STANDARDS-** AI is nothing but a software installed in a machine called as products. It is required that all the products must meet with basic safety standards and must be fit to use. AI after all is the machine which can fail anytime anywhere causing huge loss to lives and property. Owing to lack of regulations on AI, we don't know on whom the liability needs to be imposed if the machine is defective or injures the individual or public at large. What would happen if automated cars on the road cause an accident or automatic weapons injures the public? What if the system is hacked, then who will be accountable to all the destruction carried out by AI? In certain situations, it's better to define AI as Automated Insensitivity instead of Artificial Intelligence.

15. **CONTROVERSY ON LEGAL STATUS-** There is no legal status of AI yet, then who will pay the damages for the wrong done by AI? Further, if we grant legal personhood to AI to impose liability on the machine getting into the mode of destruction or acting against the public policy, then we compulsorily need to grant the corresponding rights to AI. Before granting rights to AI, we need to ponder what if a machine seeks the right to have its own religion, nationality, right to enter into contract, right to do business or trade etc. The

¹² 501 Mich. 1047.

¹³ Sean W. Stevens, *AI-based Automated Decision Making: An investigative study on how it impacts the rule of law, and the case for regulatory safeguards*, (2023) (Unpublished Masters Thesis, Lund University), available at: https://www.researchgate.net/publication/373718751_AI-based_Automated_Decision_Making_An_investigative_study_on_how_it_impacts_the_rule_of_law_and_the_case_for_regulatory_safeguards (Last visited on October 5, 2024).

¹⁴ 335 So. 3d 780 (Fla. Dist. Ct. App. 2022).



proposal also probes into the boundaries AI can work in. Whether the AI machine will always act in assistance of the humans or they will be allowed to work on their own like entering into the contracts independently? So, all these issues will be a setback on the legal boundary on which the AI operates!

16. **INADEQUATE AVAILABILITY OF AI EXPERTISE, MANPOWER-** Before we deploy AI, we must have AI experts and human resource well trained in the field of AI who can understand the outputs generated by AI.

17. **LOW AWARENESS AS TO THE USAGE OF AI SYSTEM-** As of now aggrieved by AI system doesn't know where to go for legal recourse and how to appropriate AI in best possible manner.

18. **AGAINST THE FREEDOM OF SPEECH AND EXPRESSION-** Freedom of speech and expression involves person's right to portray himself the way he wants. However, using AI tools by creating deep fake videos the creator just not violate aggrieved's dignity and privacy but also takes away his right of freedom of speech and expression.

In the case of *Anil Kapoor v. Simply Life India*¹⁵, the Indian Actor Anil Kapoor's filed a case against the use of his images, creation of GIFs, and the use of generative Artificial Intelligence to create deep fakes, where his images were morphed into various Disney characters.

19. **HALLUCINATIONS-** *Walters v. OpenAI*¹⁶ - In June 2023, famous personality Mark Walters filed the case for libel against an AI company OpenAI after its ChatGPT in a response to a question generated false statement that Walters was a defendant in one of the suits and stands accused of fraud, misappropriation. OpenAI pleaded that AI-generated information is probability-based, tend to generate false information, because of a defect called "hallucinations". If the AI system is affected with such a defect, then how can any authority rely upon the outputs generated by AI. Hence deploying AI in human sphere is not safe till we remove defect of hallucination.

20. **AI SYSTEM LACKS ACCOUNTABILITY-** Accountability is an intrinsic facet of democracy as it ensures the guaranteed protection and preservation of basic human rights. As AI is entirely based upon data and algorithms programmed by private entities, so the precious public data is vested with the private entities. Hence, accountability becomes a bone of contention and also becomes a reason why public lacks faith on AI system.

21. **AGAINST THE BASIC HUMAN DIGNITY-** AI sometimes violates the basic dignity of a human being. As happened in UK Border Control case: *The case of Joshua Bada, from the UK*¹⁷ - The British case (BBC 1, 2019). In September 2019, UK immigration agency rejected an application of the applicant when he applied for a new passport on the grounds that the system perceived the broad lips of the applicant as 'an open mouth'. The system failed to comprehend the closed lips and required him to reshare the photograph with the closed mouth rules! Technically, the natural lips were not accurately interpreted by the

¹⁵ Delhi High Court, CS (COMM) 652 of 2023.

¹⁶ *Mark Walters v. OpenAI, L.L.C.*, United States Court of Appeals, Eleventh Circuit, No. 23-13843 (11th Cir. Apr. 1, 2024).

¹⁷ Jamie Harris & Claire Gilbody-Dickerson, "Mans lips mistaken open mouth", *Mirror*, September 19, 2019, <https://www.mirror.co.uk/news/uk-news/mans-lips-mistaken-open-mouth-20098853> (Last visited on October 8, 2024).



programmed algorithms. It was reported that the systems were not programmed or fed sufficiently enough with images from the black community. This case mocks the basic dignity of the individual.

LITERATURE REVIEW

Alzbeta Krausova, “Intersections between Law and Artificial Intelligence”, *27 International Journal of Computer* 55-68 (2017), discusses the law that regulates artificial intelligence and the legal issues associated with artificial intelligence like encroachment on privacy, human rights, and make recommendations.

Eleanor Bird, Jasmin Fox-Skelly, *et. al.*, “*The Ethics of Artificial Intelligence: Issues and Initiatives*”, Panel for the Future of Science and Technology, European Parliament Research Service, PE 634.452, March 2020, this study focuses on ethical use of AI technology and on the impact of AI on the society. It also reviews initiatives taken by different states and organizations for regulation of AI.

Sean W. Stevens, “*AI-based Automated Decision Making: An investigative study on how it impacts the rule of law, and the case for regulatory safeguards*”, (2023) (Unpublished Master Thesis Lund University), discuss the connection between the rule of law and human rights. It primarily focuses on USA and European Union.

In Katrin Nyman Metcalf and Tanel Kerikmäe, “*Machines Are Taking Over-Are We Ready: Law and Artificial Intelligence*”, *33 Singapore Academy of Law Journal* 24 (2021) The authors have dealt with the possible boundaries in which AI should operate, how and why AI should be regulated. The authors remarked first we need to have a clear picture of AI only then we can formulate the laws consistent to AI and determine whether to confer the status of legal personality on AI

Yavar Bathaee, “*The Artificial Intelligence Black Box and The Failure of Intent and Causation*”, *31 Harvard Journal of Law and Technology* (2018), discusses the drawbacks of using AI and how algorithm works in AI system. It further deals with the problems associated with the AI like black box, lack of transparency, liability imposition if the machine is defective etc.

Christopher Rigano, “*Using Artificial Intelligence to Address Criminal Justice Needs*”, *280 National Institute of Journal* (2019), explains how AI can make investigation more efficient and help the law enforcement authorities to maintain public order. AI has multifarious applications in criminal justice system like facial recognition, identification of weapons or objects, predicting behaviour, DNA analysis etc. It also pointed out the shortcoming of human mind to analyse the huge data of criminal justice system in a time bound manner.

LEGAL PROVISIONS PERTAINING TO AI

United States of America- US Algorithmic Accountability Act 2022 and US AI Bill of Rights are the main enactments to regulate the AI tools deployed in all spheres of human life in USA.



The Algorithmic Accountability Act of 2022 requires companies to adopt safeguards to eliminate the biased and unfair algorithms used in AI system. Further, the companies using AI must inform about the deployment of AI by them to their clients, customers or consumers and must forward the report regarding AI system deployed by them to the Federal Trade Commission (FTC). FTC frames rules regarding assessment and publishes an annual report. FTC is responsible to create a Repository where customer dealing with AI system can seek information regarding which decisions have been automated by companies. However, this Act is criticised since the act does not cover the public sector in its ambit. Hence, automated decisions carried out or welfare schemes rolled by the state are not subjected to this act.

Another enactment in USA is AI Bill Of Rights which provides for fast, efficient Human Alternative. It also requires the option to be given to the consumers whether to have the facility of Ai system or not. It also discusses about the issue of data privacy of the consumers dealing with the AI systems wherein it requires the deployers of automated systems should not collect use, access, transfer the consumers data in the sensitive domains, including health, work, education, criminal justice, and finance etc. Further, consumers must know how and what the AI system has determined. AI systems must not determine on irrelevant grounds rather it must be answerable to the technicians who understand the system. It further provides AI systems must be safe to use and must undergo pre testing before its deployed in the society. Algorithms used in AI system must not discriminate on the basis of sex, caste, creed etc. while carrying out the automation functions. Further, AI system must not violate the data privacy rules.

European Union- EU AI Act is the major comprehensive legislation on AI in EU where it mandatorily demands the transparency of AI system which means that the output generated by AI system must be disclosed to the consumers. AI should not generate illegal output. It gives the consumers an option whether to deal with AI system or not. As far as liability clause is concerned, EU Act holds the developers of the AI system primarily responsible and then it imposes the liability on the users of AI system like employer or the government agency etc. system. Liability is also on the importers and distributors in order to prevent such systems to enter into EU. The Act prescribes four categorises of AI system on the basis of the usage and the nature, extent of risks associated with the system. The unacceptable category of AI system is 'high-risk AI'¹⁸. 1st category is of minimal risk like AI-driven video games, so the systems falling in this category can be deployed with less or no restrictions. 2nd category is limited risk like Chatbots, Emotion or biometric recognition systems, Systems generating 'deepfake' etc. such systems can be deployed with limited restrictions.

3rd category is High risk like automation in medical services, autonomous vehicles on streets, automated scoring of exams, automated hiring, automated welfare benefit systems, automated risk scoring for bail, verification of authenticity of travel documents; visa processing, robo-justice, automated sentencing assistance etc., so it may be allowed under strict regulations.

4th category is unacceptable risk like the system which affects *the behaviour or trend of individual or group likely to cause physical or psychological harm*, like system used in

¹⁸ European Commission, AI Act, available at: <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>, (Last visited on October 7, 2024).



social scoring or in public biometrics deployed by law enforcement agency, except search of victims or missing children has to be made or to prevent terrorist attacks or when there is an imminent threat to the critical infrastructure, life, health or physical safety of natural persons etc. so these systems unless stated in the exception clause must be prohibited in the interests of general public.

INDIA- India doesn't have a specific legislation on AI. However, Information Technology Act, 2000 deals with some aspects of AI like Section 43A & 72A of the Act makes responsible who commits crime using AI. Hence creating deepfakes or hacking someone else's system using AI is punishable in IT Act, 2000. But we need a comprehensive and exclusive AI act to cover all the aspects of AI system and to regulate the determinations carried out by automated systems. Present Indian cyber laws are inefficient to regulate the algorithms on which AI system automate and decide. Algorithms work on the data collected by the AI system deployers. We need guidelines to ensure the transparency, safety, accountability of AI systems operating in private and public organizations. The Ministry of Electronics and Information Technology is the organisation which is responsible to create the rules and guidelines regarding AI in India. India has Digital Personal Data Protection Act 2022 to preserve privacy of individuals in the cyber space.

SOLUTIONS TO OVERCOME LEGAL IMPACTS OF AI

- Need to establish an exclusive organisation to frame rules on AI, to look after the companies or agencies deploying AI system and to collect the reports from them.
- Automated Decisions granting any benefit or services or welfare schemes must adhere with principles of natural justice.
- AI system must be transparent to avoid black box problem.
- Automated systems should have updated monitoring procedures well suitable with changing real-world conditions.
- Relevant and high-quality data should be fed to train the AI system.
- Derived data by algorithms may lead to injustice and inaccurate results. So the Researchers, ethics review boards should be given access to the AI system and samples of associated data.
- Developers or users of automated systems must submit the nature of data used to train machine.
- Training must be imparted to analyze outputs of an AI system and ways to mitigate the effects of automation bias.
- Extensive research is required before we deploy AI.
- General public must be warned and informed that a particular output is generated by AI software and is prone to errors.



- There is high possibility user, the developer of the machine designs AI to advance its own oblique ends or motive, then strict liability may be applied on them. Further, If AI commits the crime, then it will not leave any evidence behind it.
- User or Creator of AI shouldn't be allowed to shift the blame upon the defects and deficiencies of machine to save their skin.
- Procedural Laws and Cyber laws must be amended to incorporate How AI collects the data, assists in investigation and produce information or output based on which concerned authority arrives to a particular decision.
- Authorities must rely upon relevant, admissible AI generated data. Further, Authorities must give reasoned decision as to what extent it relied upon the algorithms of AI system.
- Opinion generated by AI machine can prejudice the concerned authorities. So, AI must be used as corroborative piece to arrive any decision.
- Incorporate bias testing as part of AI system.

CONCLUSION

Undoubtedly technology lifts our lives to the level of ultimate bliss and comfort, but we must deploy it ensuring that it doesn't violate the basic inherent human rights that every individual is born with. AI system assists the various sectors in multiple ways and is found to be a substitute of manpower, resources of the nation. By using AI system, we are able to deliver automated services, facilities in many sectors across the globe. So, if we deploy the automated machines under strict supervision and compliances, we can surely improve our justice system, banking services, medical facilities, legal system etc. So, if we find the ways to deploy unbiased, accurate and relevant algorithms we can enhance the efficiency of delivering welfare schemes subsequently make our nation prosper to the greatest level.